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Paper No. 21

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In re Application of  
Boon-Lock Yeo, et al.  
Application No. 09/470,299  
Filed: December 22, 1999  
For: **METHOD AND APPARATUS FOR  
VIDEO DECODING ON A  
MULTIPROCESSOR SYSTEM**

DECISION ON PETITION

This is a decision on the Petition filed May 6, 2004, which is being treated under 37 C.F.R. § 1.181(a) to withdraw the holding of abandonment. No fee is required.

The application was held abandoned for failure to respond in a timely and effective manner to the Final Office Action mailed on June 19, 2003. A Notice of Abandonment was mailed July 1, 2003.

Petitioner alleges to have timely filed a proper response to the Final Office Action on August 19, 2003. To support this position, Petitioner has included with the instant petition, a copy of the response mailed on August 19, 2003 and a copy of a post card receipt date stamped as having been received in the U.S. Patent and Trademark Office on August 21, 2003.

A review of the application record reveals that the amendment submitted on August 21, 2003 was in fact received and entered into the application. On September 9, 2003, the examiner determined that the After Final Response filed August 21, 2003 failed to place the application in condition for allowance and set forth that decision in an Advisory Action. A copy of the advisory action is enclosed with this decision. It would also appear as though the advisory action was returned to the U.S. Patent and Trademark Office by the U.S. Postal service. It is also noted that the Notice of Abandonment mailed on April 16, 2004 references the reply on August 21, 2003 and that it did not constitute a proper reply under 37 C.F.R. § 1.113(a) to the final rejection.

While the response to the Final rejection has been deemed to have been timely filed, petitioner should note that the admission of, or refusal to admit, any amendment after a final rejection, will not operate to relieve the application from its condition as subject to appeal or to save the application from abandonment under § 1.135. See 37 CFR 1.113 and 1.116. In other words, a reply under 37 CFR 1.113 to a final rejection must include the appeal from, or cancellation of, each rejected claim. The mere filing of an amendment after final rejection, whether or not it is entered, does not stop the running of the statutory period for reply to the final rejection unless the examiner holds the claims to be in condition for allowance. Accordingly, if a Notice of Appeal

was not filed properly within the period for reply, then the application was appropriately held as abandoned. The application record does not provide evidence that a Notice of Appeal was filed.

Accordingly, the petition is **DENIED**.

The application is being returned to the abandoned files repository.

Any request for reconsideration including necessary evidence must be submitted within TWO (2) Months from the mailing date of this decision. Extensions of time under 37 CFR 1.136(a) are not permitted. The reconsideration request should be a cover letter entitled "Renewed petition to Withdraw the Holding of Abandonment." This is not a final agency action within the meaning of 5 USC 704.

Alternatively, petitioner may file a petition to revive the application under 37 C.F.R. 1.137.



Dwayne Bost  
Special Programs Examiner  
Technology Center 2600  
Communications

Enclosure: Advisory Action (3 pages)



dm

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/470,299	12/22/1999	BOON-LOCK YEO	042390.P7940	5988

7590 09/09/2003

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[REDACTED] EXAMINER

RAO, ANAND SHASHIKANT

[REDACTED] ART UNIT

[REDACTED] PAPER NUMBER

2613

DATE MAILED: 09/09/2003

18

Please find below and/or attached an Office communication concerning this application or proceeding.

RECEIVED  
SEP 16 2003  
Technology Center 2600

<b>Advisory Action</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/470,299	YEO ET AL.9
	<b>Examiner</b>	<b>Art Unit</b>
	Andy S. Rao	2613

*--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

THE REPLY FILED 21 August 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a)  The period for reply expires 3 months from the mailing date of the final rejection.
- b)  The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1.  A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2.  The proposed amendment(s) will not be entered because:
  - (a)  they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b)  they raise the issue of new matter (see Note below);
  - (c)  they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d)  they present additional claims without canceling a corresponding number of finally rejected claims.
3.  Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4.  Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5.  The a) affidavit, b) exhibit, or c) request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.
6.  The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7.  For purposes of Appeal, the proposed amendment(s) a) will not be entered or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

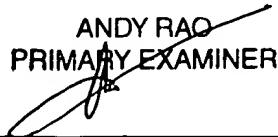
Claim(s) rejected: 1, 3-9, 11-17, and 19-24.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8.  The proposed drawing correction filed on \_\_\_\_\_ is a)a) approved or b) disapproved by the Examiner.

9.  Note the attached Information Disclosure Statement(s) ( PTO-1449) Paper No(s). \_\_\_\_\_.

10.  Other: \_\_\_\_\_.

  
ANDY RAO  
PRIMARY EXAMINER

Andy S. Rao  
Primary Examiner  
Art Unit: 2613

Continuation of 2. NOTE: the proposed amendment of claims 1, 9, and 17 now adding "...assigning varying..." from canceled claims 3, 11, and 19 (respectively), would require further search/consideration of the relevant art with regards to dependent claims 4-8, 12-16, and 20-24, and will not be entered.